

PROJECT NO. 54062

**REVIEW OF CLASS D WATER AND
SEWER UTILITY RATE
ADJUSTMENTS**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO 16 TAC §24.49, AS
APPROVED AT THE SEPTEMBER 29, 2022, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to 16 Texas Administrative Code (TAC) §24.49 relating to Application for a Rate Adjustment by a Class D Utility Under Texas Water Code §13.1872. Proposed amendments to 16 TAC §24.49 will streamline the process for a Class D water utility to apply for a rate adjustment. It will also provide Class D utilities the benefits of commission’s professional resources that will reduce their regulatory compliance burden. The commission also proposes changes to the corresponding Class D utility rate adjustment application form.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will not, in effect, create a new regulation, because it is replacing a similar regulation;

(6) the proposed rule will repeal an existing regulation, but it will replace that regulation with a similar regulation;

(7) the same number of individuals will be subject to the proposed rule's applicability as were subject to the applicability of the rule it is being proposed to replace; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Anna Givens, director of financial review, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the section.

Public Benefits

Ms. Givens has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section is increased efficiency in processing Class D water utilities rate adjustment applications. It will also provide Class D utilities the benefits of commission's professional resources to reduce their regulatory compliance burden and decrease regulatory lag. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section.

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking on November 11th, 2022, at 9:00 A.M. in the Commissioners' Hearing Room, 7th floor, William B. Travis Building if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 4, 2022. If no request for public hearing is received and the commission staff cancels the hearing, it will file in this project a notification of the cancellation of the hearing prior to the scheduled date for the hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 4, 2022. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests comments on the corresponding Class D utility rate adjustment application form filed under Project No. 54062. The commission will consider the costs and benefits in deciding whether to modify the application form and proposed rules on adoption. All comments should refer to Project No. 54062.

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The rule is proposed under TWC §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically, TWC §13.181(b), which provides the commission with the authority to fix and regulate rates of utilities; TWC §13.1872, which requires the commission to adopt rules establishing procedures to allow a Class D utility to receive an annual rate adjustment without a hearing; and TWC §13.1873, which requires the commission to adopt rules that allow a Class C or D utility to file a less burdensome application than the applications for a Class A or B utility.

Cross Reference to Statute: Texas Water Code §§13.041, 13.181(b), 13.1872, and 13.1873.

§24.49. Application for a Rate Adjustment by a Class D Utility Under Texas Water Code §13.1872.

(a) **Purpose.** This section establishes procedures for a Class D utility to apply for an adjustment to its water or wastewater rates as allowed by Texas Water Code (TWC) §13.1872(c)(1).

(b) **Definitions.** In this section, the term application means an application for a rate adjustment filed under this section and TWC §13.1872(c)(1).

(c) **Requirements for filing of the application.** Subject to the limitations set out in subsection (g) ~~(f)~~ of this section, a Class D utility may file an application with the commission.

(1) The utility may request to increase its tariffed monthly fixed customer or meter charges and monthly gallonage charges by no more than five percent.

~~_____~~(2) The application must be on the commission's form, ~~and must include:~~

~~(A) a proposal for the provision of notice that is consistent with subsection (e) of this section; and~~

~~(B) a copy of the relevant pages of the utility's currently approved tariff showing its current monthly fixed customer or meter charges and monthly gallonage charges.~~

(d) ~~**Processing of the application.** The following criteria apply to the processing of an application.~~

~~_____~~(1) **Determining whether the application is administratively complete.**

(A1) If commission staff requires additional information in order to process the application, commission staff must file a notification to the utility within 104 days of the filing of the application requesting any necessary information.

(B2) An application may not be deemed administratively complete as required by §24.8 of this title (relating to Administrative Completeness) until after the utility has responded to commission staff's request under ~~sub~~paragraph (1A) of this ~~subsection~~paragraph.

(e) Staff recommendation.

~~(2)~~—Within 30 days of the filing of the application, commission staff must file a recommendation stating whether the application should be deemed administratively complete as required by §24.8 of this title. If commission staff recommends that the application be deemed administratively complete, commission staff must also file a recommendation on final disposition, including:

(1) The utility's rate adjustment information as follows:

(A) Certificate of Convenience and Necessity(CCN) number;

(B) Affected subdivision(s);

(C) Existing and proposed base rate by meter size;

(D) Existing and proposed gallonage rate by block;

(E) Percentage increase of the rate adjustment;;

(F) Date by which notice is delivered; and

(G) Effective date of the rate increase.

(2) if necessary, aAn updated ~~proposed~~ tariff sheet reflecting the requested rate change;
and

~~(3) The proper notice of approved rates to be provided to the utility's ratepayers as described in subsection Section (f)(2) of this section.~~

(fe) Notice of Approved Rates.

~~(1) After the utility receives a written order by the commission approving or modifying the utility's application, including the proposed notice of approved rates, and at least 30 days before the effective date of the proposed change established in the commission's order, the A utility must send by mail, or by e-mail if the ratepayer has agreed to receive communications electronically, the approved or modified notice to each ratepayer describing the proposed rate adjustment. The notice must be sent after the utility receives a written order from the commission approving the application, and at least 30 days before the effective date of the approved change.~~

~~(2) The A notice of approved rates must include:~~

~~(A1) a statement that the utility requested an annual a rate adjustment and specifying the percent amount requested;~~

~~——(B2) the existing rate;~~

~~——(C3) the approved rate;~~

~~(D) a monthly billing comparison; and~~

~~(E4) a statement that the rate adjustment was requested under TWC §13.1872 and that a hearing will not be held for the request.~~

(gf) Time between filings. ~~The following criteria apply to the timing of the filing of an application.~~

~~(1) — A Class D utility may adjust its rates under this section not more than once each calendar year and not more than four times between rate proceedings filed under TWC §13.1872(c)(2).~~

~~(2) — The filing of applications as allowed by this section is limited to a specific quarter of the calendar year, and is based on the last two digits of a utility's certificate of convenience and necessity (CCN) number as outlined below, unless good cause is shown for filing in a different quarter. For a utility holding multiple CCNs, the utility may file an application in any quarter for which any of its CCN numbers is eligible.~~

~~———— (A) — Quarter 1 (January–March): CCNs ending in 00 through 27;~~

~~———— (B) — Quarter 2 (April–June): CCNs ending in 28 through 54;~~

~~———— (C) — Quarter 3 (July–September): CCNs ending in 55 through 81; and~~

~~———— (D) — Quarter 4 (October–December): CCNs ending in 82 through 99.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 29th DAY OF SEPTEMBER 2022 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ**